

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

RODNEY F. JACKSON,

Plaintiff,

vs.

McDONALD'S, TONI DELFS,
SCOTT GREEN, KATHY and KEITH
PETRIC,

Defendants.

No. C10-4058-DEO

ORDER

This matter is before the court on the plaintiff's *pro se* application to proceed *in forma pauperis* (Doc. No. 1), and motion for appointment of counsel (Doc. No. 2). In his proposed Complaint, the plaintiff alleges the defendants discriminated against him on the basis of his race in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* He claims these actions occurred during the summer and fall of 2008.

In considering whether to grant *in forma pauperis* status, the court must dismiss any case which the court finds fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(ii). The law requires a Title VII complainant to file a charge with the Equal Employment Opportunity Commission within 180 days after the alleged unlawful employment practice occurred, or within 300 days after such occurrence if the complainant initially instituted discrimination proceedings with a state or local agency. 42 U.S.C. § 2000e-5(e)(1). If a claim is not filed within the applicable time period, it is time-barred. *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 109, 122 S. Ct. 2061, 2070, 153 L. Ed. 2d 106 (2002).

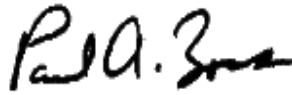
The plaintiff in this case has failed to show that he filed a charge with either the EEOC or the Iowa Civil Rights Commission within the time allowed by law. As such, the

court finds he has failed to state a claim for which relief can be granted, and this case is **dismissed**. The dismissal, however, is **without prejudice**; the plaintiff may refile the case if he can show he has complied with the applicable statute of limitations.

Given the dismissal of this case, the motion for appointment of counsel is found to be moot.

IT IS SO ORDERED.

DATED this 1st day of October, 2010.

A handwritten signature in black ink, appearing to read "Paul A. Zooss", is written above a horizontal line.

PAUL A. ZOISS
CHIEF MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT